



## Committee on Professional Ethics

Opinion #274 -- 12/14/72 (55-72)

Topic: Conflict of Interest

Digest: Lawyer may not continue representation of infant plaintiff after joining firm which represents defendant in other matters.

Code: Canon 5; EC 5-1; 5-14; 5-15; DR 5-105(D).

### QUESTION

May a lawyer continue to represent an infant plaintiff in a personal injury action against an insured defendant after joining a firm as a partner or an associate which represents the defendant generally in other matters?

### OPINION

Where a lawyer who represents an infant plaintiff in a personal injury action against an insured defendant, thereafter joins an existing firm of lawyers that represents the defendant generally though not in the action brought by the infant, he may not continue to represent the plaintiff.

Because a lawyer owes his client undivided loyalty, EC 5-1, he may not properly undertake the representation of conflicting interests. EC 5-14; EC 5-15. It is therefore improper for a lawyer to represent a personal injury plaintiff against a client whom the lawyer generally represents in other matters. N.Y. City 711 (1947); N.Y. City 382 (1936); N.Y. County 279 (1930); ABA 112 (1934). If a lawyer is precluded from participating in litigation because of conflict of interest, his partners and associates are similarly precluded. DR 5-105(D); N.Y. State 257 (1972); ABA 33 (1931); ABA Inf. 437 (1961).

Though under some circumstances conflicts may be resolved by informed consent of the parties, such consent cannot be obtained where one of the parties is an infant. N.Y. State 256 (1972).

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